

Attachment 1
Gas Service Agreement

Gas Services Agreement

This agreement (Agreement) is made by and among Praxair, Inc. (Praxair), Chevron U.S.A. Inc. (Chevron), and Pacific Gas and Electric Company (PG&E), each of which is a Party, and all of whom together are the Parties. In addition, Chevron and Praxair are End-Users. This Agreement sets forth the terms and conditions for the provision of natural gas service by PG&E via Chevron's Richmond Refinery (Refinery) internal gas distribution system (House Line) to a Praxair facility located within the boundary of the Refinery. Service will be provided to the Praxair facility through the Praxair owned and operated meter (Praxair Meter). This Agreement provides certain nonstandard terms and conditions of service that are agreed to by PG&E as an accommodation to Chevron and Praxair. Nothing in this Agreement shall be deemed to be a precedent for or in any way applicable to any other service at any other location.

1. Other Agreements. This Agreement is not the full agreement of the Parties with respect to natural gas services provided to the End-Users by PG&E. In addition to this Agreement, each End-User must also have a current fully-executed Natural Gas Services Agreement (NGSA) and, if applicable, a Noncore Balancing Aggregation Agreement (NBAA) with PG&E. Service to each End-User is also governed by PG&E's Tariffs. Should the terms and conditions of this Agreement conflict in anyway with PG&E's Tariffs, the NGSA, or the NBAA or their successors, the terms and conditions of this Agreement shall prevail.

2. Chevron Facilities Used to Provide Service.

2.1 House Line. The delivery of gas to the Praxair Meter from the Service Delivery Point (as defined in Section 3.2) shall utilize gas pipes, or "house lines," that are owned, operated, and maintained by Chevron (House Line).

2.2 Service Subject to Chevron Facilities. PG&E's provision of natural gas services to Praxair under this Agreement is strictly subject to and limited by Praxair's capacity lease and its continued right to use the House Line and the continued fitness of the House Line for this purpose.

2.3 Discontinuation of Service. PG&E may discontinue service to Praxair at the Praxair Meter without liability of any kind to Praxair or to Chevron if at any time PG&E determines in its sole reasonable judgment that such service poses a risk to the public health and safety or to the PG&E gas transmission system, or if Chevron for whatever reason discontinues service to Praxair using the House Line. Upon any such discontinuation of service, PG&E shall be relieved of any obligation to continue to provide service to Praxair under this Agreement; at the same time, service under Praxair's NGSA and, if applicable, NBAA shall be suspended indefinitely, pending resolution of the PG&E-identified problem or construction of another interconnection to PG&E's gas transmission system that is located outside the boundary of the Refinery and is not constructed at PG&E's expense. Re-establishment of service by PG&E would be per PG&E's Gas Rule 15 and 16. In this event, Praxair shall be billed for and liable to PG&E for full payment of any imbalance accrued and measured at the Praxair Meter and service provided up to the time service to the Praxair Meter is suspended, including any applicable penalties and interest.

3. Gas Delivery and Measurement.

3.1 Chevron Meter. All gas service to the End-Users will be delivered through revenue meters that measure gas deliveries to the Refinery, which are owned, operated, and maintained by PG&E (collectively, the Chevron Meter).

3.2 Service Delivery Point. The Service Delivery Point for service from PG&E to both Chevron and Praxair shall be either the Chevron Meter, or, if PG&E continues to own, operate

and maintain gas pipelines beyond the Chevron Meter, the point at which the PG&E-owned pipe physically interconnects with the House Line. Custody of and risk of loss for all such gas deliveries shall transfer to Chevron at the Service Delivery Point and to Praxair at the Praxair Meter.

3.3 Control Point. The control point for service to the End-Users shall be the Chevron Meter. The control point is the point at which the End-Users' compliance with Operational Flow Orders, Emergency Flow Orders, local curtailments and other actions ordered or requested by PG&E is measured and enforced. PG&E shall have the unilateral right to disconnect both End-Users from PG&E-provided services at the Control Point for purposes of enforcing its right to receive payment for services from either End-User or to maintain the integrity of PG&E's gas transmission system or protect the safety of persons and property, in each case without liability of any kind to any End-User.

3.4 Nominations. Subject to the NGSA and the NBAA, Praxair and Chevron will each be responsible for separately nominating their respective volumes to the Service Delivery Point in accordance with PG&E's Tariffs.

3.5 Gas Delivery Pressure. Per PG&E Gas Rule 2, Description of Service, gas initially will be delivered at a pressure higher than standard delivery pressure where such higher pressure is available from existing facilities. PG&E, however, retains the right to decrease at any time the higher delivery pressure to a delivery pressure not less than the standard delivery pressure.

3.6 Praxair Meter. Measurement of all gas deliveries to the End-Users shall be made at the Chevron Meter. Praxair shall install at its own expense, own, operate, and maintain its meter (Praxair Meter) downstream of the Chevron Meter, to be located within the Refinery near or at the point the House Line interconnects with the Praxair facility, and it shall constitute a separate gas service. Gas that is measured at the Chevron Meter less that measured by the Praxair Meter shall be deemed for billing, payment, and balancing purposes to have been delivered to Chevron. Measurement facilities at the Praxair Meter shall include telemetry that will provide PG&E with real-time volumetric flows. All metered data from the Praxair Meter shall be communicated to PG&E by Praxair, at its own expense, in a manner required by PG&E.

3.7 Measurement and Verification. Praxair and Chevron shall develop metering specifications, which must be acceptable to PG&E and in accordance with American Gas Association (AGA) 2530 standards. Praxair shall be solely responsible for the testing and accuracy of the Praxair Meter. PG&E may require and witness testing of the Praxair Meter to verify its accuracy at any time, not to exceed twelve (12) times during each year over the term of this Agreement. All test data shall be provided to PG&E upon request. If an error of greater than one percent (1%) in either direction is discovered, the Praxair Meter shall be corrected, adjusted, or replaced as necessary to eliminate the error, and the gas accounting shall be adjusted accordingly for the shorter of the last billing cycle immediately preceding the test or the period since the last calibration.

3.8 Gas Balancing. Each End-User will be subject to balancing in accordance with the Tariffs, the NGSA and the NBAA or their successors. For Praxair, imbalances will be calculated as the difference, if any, between Praxair's confirmed receipts and the volumes measured at the Praxair Meter for the imbalance period. For Chevron, imbalances will be calculated for each imbalance period as the difference between Chevron's confirmed receipts and the total volumes measured at the Chevron Meter less Praxair Meter volumes.

4. Other Provisions.

4.1 Billing. PG&E will bill Chevron and Praxair separately, each as an end-use customer. Service to Praxair will be measured at the Praxair Meter, with a separate bill for the Praxair Meter. Service to Chevron will be deemed to be all deliveries through the Chevron Meter,

less the volumes measured at the Praxair Meter. After ten (10) days have passed without objection from any End User, all PG&E bills that are based on these calculations shall be deemed correct as to volumes for purposes of each End-Users' billing and payment obligations. Any disagreement between Praxair and Chevron as to gas deliveries or the allocation of billed amounts between them must be resolved between Chevron and Praxair without the involvement of PG&E. PG&E's bills must be paid in full, without reductions, within the time set forth in the Tariffs. If Praxair fails to pay for its service within such time, PG&E is authorized under this Agreement to deem all deliveries through the Chevron Meter to be for Chevron's account, and PG&E will bill Chevron for, and Chevron shall pay for, all such deliveries and associated imbalances; provided that, PG&E shall provide at least five (5) business days' advance written notice to Chevron of PG&E's intent to bill Chevron.

If a billing error occurs based on Praxair Meter inaccuracy, the bill from PG&E shall be corrected and adjusted as necessary to eliminate the error. Any necessary adjustments shall be made accordingly for the shorter of the last billing cycle or period in which the error was discovered. Chevron's bill will also be adjusted in a similar manner, to reflect the difference between the Chevron Meter and the Praxair Meters as adjusted.

If a billing error is discovered due to a measurement inaccuracy at the Chevron Meter, PG&E shall adjust its bill, gas accounting and any other necessary adjustments to Chevron pursuant to the provisions of Gas Rule 17.1 and refund or invoice Chevron the entire metering difference.

Both End-Users shall be subject to the provisions of Gas Rule 17.1 for the application of appropriate, rates, fees, and other charges.

4.2 Assignment. This Agreement may not be assigned by a Party without the written consent of the other Parties, which written consent may not be withheld unreasonably.

4.3 Access to Facilities. Praxair hereby grants PG&E access to the Praxair facilities subject to reasonable advance notice from PG&E. Chevron hereby grants PG&E the right of ingress and egress subject to reasonable advance notice from PG&E to and from the Refinery as reasonably necessary for PG&E to implement this Agreement and to exercise its rights hereunder.

4.4 CPUC Approval. Because this Agreement deviates from PG&E's Tariffs, it must be filed with and approved by the CPUC before it will become effective. PG&E shall be solely responsible for preparing and making such a filing, and each of Praxair and Chevron hereby agree to provide a letter in support of that filing. Praxair and Chevron will have the right to review and comment upon the contents of such a filing prior to submission to CPUC, and to similarly coordinate with PG&E in terms of a response to protests, if any. To become effective, this Agreement must be approved by the CPUC without modifications or conditions that are unacceptable to any Party in its sole discretion. If such a modification of condition is ordered by the CPUC, the Parties agree to meet and confer regarding amendments to this Agreement that may be acceptable to all Parties and will address the concerns raised by the CPUC.

4.5 Governing Law. This Agreement shall at all times be subject to any changes or modifications the California Public Utilities Commission may direct, from time to time, in the exercise of its jurisdiction.

4.6 Indemnity. Praxair and Chevron (the Indemnifying Parties) hereby jointly and severally indemnify and agree to hold harmless PG&E, its directors, officers, employees, representatives, and agents (the Indemnified Parties) from and against any and all claims resulting from or in any way related to PG&E's performance in accordance with this Agreement, including without limitation PG&E's exercise of its rights under Section 3.2 or Section 4.1. If PG&E elects to defend itself from any such claim, the Indemnifying Parties shall be liable

hereunder for the reasonable costs, including reasonable attorneys' fees, incurred by PG&E in such defense and for any judgment rendered against PG&E.

4.7 Term. This Agreement shall be in effect from the date of CPUC Approval (Section 4.4) through expiration of the capacity lease for use of the House Lines between Praxair and Chevron. The initial term of this Agreement will be 15 years following approval, and continue on a month to month thereafter cancellable by any party with at least 30 days advanced written notice to the other Parties.

4.8 General. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or another as the result of preparation, drafting, or execution hereof. This Agreement shall not amend, modify or otherwise affect the obligations of Praxair or Chevron to one another under the hydrogen supply, ground lease or natural gas supply agreements executed between them on October 11, 2006, as may be amended from time to time. No amendment or modification of this Agreement shall be enforceable unless it is set forth in writing and executed by all the Parties. This Agreement shall not be deemed to impart any rights enforceable by any non-Party. Waiver by a Party of a breach or default by another Party shall not constitute a waiver of any further or other breach or default. The headings used herein are for convenience and reference, only, and are not substantive provisions of the Parties' agreement. Facsimile or PDF transmission will be the same as delivery of an original document. This Agreement shall be binding on each Party, its successors and permitted assigns.

4.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile shall be deemed as effective as delivery of an originally executed counterpart.

4.10 Execution Authority. By its signature below, each Party represents and warrants that it is authorized to enter into this Agreement and to execute the same, and that, by so executing, shall bind its company to the terms and conditions set forth herein.

For Praxair:

By: 
Michael Jordan, Vice President - West Region
Date: May 7, 2009

For Chevron:

By: 
Michael Coyle, General Manager - Richmond Refinery
Date: May 09, 2009

For PG&E:

By: 
Steve Whelan, Senior Director, Wholesale, Marketing, and Business Development
Date: May 8, 2009